IN THE U.S. PATENT AND TRADEMARK OFFICE

U.S. Appl. No.:	10/587,899	Confirmation No.:	8912
Title:	COMBINATIONS OF AN ANTIEMETIC AGENT AND AN ENKEPHALINASE INHIBITOR		
Inventor(s):	Jean-Charles Schwartz, et al.		
Filed:	April 27, 2007		
Art Unit:	1614		
Examiner:	Spivack, Phyllis G		
Docket No.:	P08977US00/BAS		
Customer No.:	000881		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Response to Restriction Requirement

Sir:

Applicants herein respond to the Restriction Requirement dated January 28, 2010.

In the Restriction Requirement, the Examiner separated the claims into two groups, namely: Group I, claims 14 and 17-19, directed toward methods for treating acute gastroenteritis; and, Group II, claims 15-16, directed toward methods for treating acute diarrhea associated with emesis. In particular, in separating the claims, the Examiner asserted that groups I and II are distinct inventions that would require different search strategies because gastroenteritis usually involves the stomach and the small intestine, while acute diarrhea associated with emesis usually involves the entire intestinal tract.

Contrary to the Examiner's assertions, Applicants respectfully submit that the alleged inventions are not independent and distinct, and that the Examiner has improperly separated the claims into different groups. Indeed, the claims of Groups I and II are interrelated and overlap in scope as the claims in each of these groups relate to the use of a combination consisting essentially of racecadotril or dexecadotril with ondansetron or granisetron. In fact, the claims of both Groups I and II incorporate the combination of claim 1, which specifically recites the combination of racecadotril or dexecadotril with ondansetron or granisetron. As such, it is clear that the claims in Group I will necessarily have the same limitations as the claims of Group II to the extent that all incorporate the particular combination recited in claim 1. Accordingly, it is thus the case that the claims of Groups I and II share a corresponding technical feature and do not constitute separate inventive concepts. Indeed, in the Restriction Requirement dated January 28, 2010, the Examiner indicated that claims 1-13 and 20-24, which are directed to the combination of racecadotril or dexecadotril with ondansetron or granisetron, are to be examined along with the group that is elected in response to the Restriction Requirement.

Even further, because the claims in Groups I and II both relate to the use of a combination that consists essentially of racecadotril or dexecadotril with ondansetron or granisetron, each of the embodiments claimed in Groups I and II thus have the same mode of operation, function, and effect. Combined with the fact that these claims share a corresponding technical feature as set forth above, the fact that each of these embodiments has similar characteristics further shows that the examination of all of the

claims in Groups I and II would not require separate and non-coextensive searches that would present a serious burden to the Examiner. See MPEP §803.

Accordingly, in a situation where, as here, the examination of all of the claims can be made without presenting a serious burden to the Examiner, the restriction is improper, and the Examiner should examine the claims of the application without restriction.

Applicants thus respectfully submit that the Restriction Requirement is respectfully traversed and should be withdrawn.

Without prejudice to the above arguments, however, and solely for the purpose of completing this response, Applicants provisionally elect Group II directed to a method of treating acute diarrhea associated with emesis. As indicated above, this election is made with traverse.

In light of the foregoing response, examination and allowance of all of the claims of the application is respectfully requested.

Respectfully submitted,

Date: April 28, 2010

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